BEFORE THE APPEALS BOARD FOR THE KANSAS DIVISION OF WORKERS COMPENSATION

AARON J. MCGOYNE Claimant)
VS.)) Docket No. 239,820
G. W. VAN KEPPEL COMPANY Respondent	,))
AND	,))
FEDERATED MUTUAL INSURANCE COMPANY Insurance Carrier))

ORDER

Claimant appealed Administrative Law Judge Julie A. N. Sample's November 10, 1999, preliminary hearing Order.

Issues

Claimant requested medical treatment and temporary total disability benefits for an alleged work-related low-back injury. Claimant claims he injured his low back at work during a specific lifting incident that occurred on September 14, 1998, and then he continued to suffer injury while performing his regular work activities through his last day worked of September 18, 1998. The Administrative Law Judge found claimant suffered a work-related low-back injury but denied claimant's request for preliminary hearing benefits. The Administrative Law Judge found claimant failed to prove he gave respondent notice of accident within ten days thereof, and further failed to show "just cause" within seventy-five days for not giving notice within ten days.¹

Claimant contends he gave notice of the work-related accident to the respondent within ten days. The claimant requests the Appeals Board to reverse the Administrative Law Judge and order respondent to provide the requested preliminary benefits.

FINDINGS OF FACT AND CONCLUSIONS OF LAW

After reviewing the preliminary hearing record and considering the arguments contained in the claimant's brief, the Appeals Board concludes the Administrative Law Judge's preliminary hearing Order should be affirmed.

For the reasons stated in the preliminary hearing Order, the Appeals Board finds claimant failed to prove he gave respondent notice of accident within ten days and failed to show "just cause" within seventy-five days for failure to give the required ten-day notice. The findings and conclusions contained in the Administrative Law Judge's preliminary hearing Order are accurate and supported by the preliminary hearing record. It is not necessary for the Appeals Board to repeat those findings and conclusions in this Order. Therefore, those findings and conclusions are adopted by the Appeals Board as its own.

WHEREFORE, it is the finding, decision, and order of the Appeals Board that Administrative Law Judge Julie A. N. Sample's November 10, 1999, preliminary hearing Order should be, and it is hereby, affirmed in all respects.

Dated this	day of January 2000.

IT IS SO ORDERED.

BOARD MEMBER

c: James B. Biggs, Topeka, KS Larry G. Karns, Topeka, KS Julie A. N. Sample, Administrative Law Judge Philip S. Harness, Director